IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF DECEMBER
TWO THOUSAND AND SIX

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE G.BHAVANI PRASAD

WRIT PETITION No.25499 OF 2006

Between:

M/s.Jayalakshmi Cashew Co., Palasa.
Rep. By its Proprietor Mr.M.Suryanarayana Gupta.

..... PETITIONER

AND

The Commercial Tax Officer,
Kasibugga Cirlce, Srikakulam Dist.
And others.

....RESPONDENTS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE
G.BHAVANI PRASAD

WRIT PETITION No.25499 OF 2006

O R D E R
(Per Sri Justice J.Chelameswar)

This writ petition is filed with a prayer as follows:

> **"... Hon'ble Court may be pleased to issue a Writ of Certiorari or any other appropriate writ or order or direction quashing the order of the 3rd Respondent in CCT's Ref.No.LV(3)/1232/2006 dated 31.8.2006 in refusing to grant stay of collection of disputed tax of Rs.1,66,292/- as illegal, arbitrary and contrary to law and consequently restrain the 1st Respondent from taking any coercive steps for collection of disputed tax for the assessment year 1999-2000 under the APGST Act pending disposal of the appeal before the Sales Tax Appellate Tribunal, Visakhapatnam Bench, and pass ..."**

The petitioner being a proprietary concern carrying on the business of sales of processed and unprocessed cashew nuts/kernel, is registered as dealer on the rolls of the 1st respondent, under the A.P. General Sales Tax Act. For the assessment year 1999-2000, the tax liability of the petitioner under the abovementioned Act came to be determined the 4th respondent by his order dated 04.06.2002. Aggrieved by the same, the petitioner carried the matter in appeal before the concerned Appellate Deputy Commissioner. The said appeal was allowed by an order dated 24.03.2003. However, the 2nd respondent by an order dated 29.05.2006 revised the assessment order of the 4th

respondent, referred to above, in exercise of the power under Section 20(2) of the APGST Act. Aggrieved by the same, the petitioner carried the matter in appeal before the Sales Tax Appellate Tribunal, which is said to be pending. Along with the appeal, the petitioner also filed an application before the

3rd respondent seeking stay of recovery of the disputed tax during pendency of the appeal. The 3rd respondent by his order dated 31.08.2006 rejected the said application. Hence, the present writ petition.

Heard the learned Government Pleader.

In the circumstances, we are of the opinion that the writ petition can be disposed of at the admission stage itself by directing the respondents not to take any coercive steps for recovery of the disputed tax during the pendency of the appeal before the Sales Tax Appellate Tribunal on condition the petitioner deposits 50% of the tax due, as determined by the 2nd respondent, within a period of six weeks from today. The amount of tax, if any, paid already towards the disputed tax, shall be given credit while computing the above-mentioned amount of 50%.

With the above direction, the writ petition is disposed of.

JUSTICE J.CHELAMESWAR

JUSTICE G.BHAVANI PRASAD

8th DECEMBER, 2006
PGS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE
G.BHAVANI PRASAD

WRIT PETITION No.25499 OF 2006
(Per Sri Justice J.Chelameswar)

8TH DECEMBER, 2006

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